

§ 155.7

States in time of war or national emergency, to facilitate financing the operation and maintenance or further development of a public airport.

§ 155.7 General policies.

(a) Upon a request under § 155.11, the Administrator issues any instrument that is necessary to remove, of record, any restriction against the use of property for industrial purposes that is in an instrument of disposal covered by this part.

(b) The Administrator does not issue a release under this part if it would allow the sale of the property concerned to a third party, unless the public agency concerned has obligated itself to use the proceeds from the sale exclusively for developing, improving, operating, or maintaining a public airport.

(c) Except for a release from a restriction against using property for industrial purposes, the Administrator does not issue a release under this part unless it is justified under § 155.3(a) (1) or (2).

(d) The Administrator may issue a release from the terms, conditions, reservations, or restrictions of an instrument of disposal subject to any other terms or conditions that he considers necessary to protect or advance the interests of the United States in civil aviation. Such a term or condition, including one regarding the use of proceeds from the sale of property, is imposed as a personal covenant or obligation of the public agency concerned rather than as a term or condition to the release or as a covenant running with the land, unless the Administrator determines that the purpose of the term or condition would be better achieved as a condition or covenant running with the land.

(e) A letter or other document issued by the Administrator that merely grants consent to or approval of a lease, or to the use of the property for other than the airport use contemplated by the instrument of disposal, does not otherwise release the property from the terms, conditions, reservations, or restrictions of the instrument of disposal.

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§ 155.9 Release from war or national emergency restrictions.

(a) The primary purpose of each transfer of surplus airport property under section 13 of the Surplus Property Act of 1944 was to make the property available for public or civil airport needs. However, it was also intended to ensure the availability of the property transferred, and of the entire airport, for use by the United States during a war or national emergency, if needed. As evidence of this purpose, most instruments of disposal of surplus airport property reserved or granted to the United States a right of exclusive possession and control of the airport during a war or emergency, substantially the same as one of the following:

(1) That during the existence of any emergency declared by the President or the Congress, the Government shall have the right without charge except as indicated below to the full, unrestricted possession, control, and use of the landing area, building areas, and airport facilities or any part thereof, including any additions or improvements thereto made subsequent to the declaration of the airport property as surplus: *Provided, however,* That the Government shall be responsible during the period of such use for the entire cost of maintaining all such areas, facilities, and improvements, or the portions used, and shall pay a fair rental for the use of any installations or structures which have been added thereto without Federal aid.

(2) During any national emergency declared by the President or by Congress, the United States shall have the right to make exclusive or nonexclusive use and have exclusive or nonexclusive control and possession, without charge, of the airport at which the surplus property is located or used or of such portion thereof as it may desire: *Provided, however,* That the United States shall be responsible for the entire cost of maintaining such part of the airport as it may use exclusively, or over which it may have exclusive possession and control, during the period of such use, possession, or control and shall be obligated to contribute a reasonable share, commensurate with the use made by it, of the cost of maintenance of such property as it may use

nonexclusively or over which it may have nonexclusive control and possession: *Provided further*, That the United States shall pay a fair rental for its use, control, or possession, exclusively or nonexclusively, of any improvements to the airport made without U.S. aid.

(b) A release from the terms, conditions, reservations, or restrictions of an instrument of disposal that might prejudice the needs or interests of the armed forces, is granted only after consultation with the Department of Defense.

§ 155.11 Form and content of requests for release.

(a) A request for the release of surplus airport property from a term, condition, reservation, or restriction in an instrument of disposal need not be in any special form, but must be in writing and signed by an authorized official of the public agency that owns the airport.

(b) A request for a release under this part must be submitted in triplicate to the District Airport Engineer in whose district the airport is located.

(c) Each request for a release must include the following information, if applicable and available:

(1) Identification of the instruments of disposal to which the property concerned is subject.

(2) A description of the property concerned.

(3) The condition of the property concerned.

(4) The purpose for which the property was transferred, such as for use as a part of, or in connection with, operating the airport or for producing revenues from nonaviation business.

(5) The kind of release requested.

(6) The purpose of the release.

(7) A statement of the circumstances justifying the release on the basis set forth in § 155.3(a) (1) or (2) with supporting documents.

(8) Maps, photographs, plans, or similar material of the airport and the property concerned that are appropriate to determining whether the release is justified under § 155.9.

(9) The proposed use or disposition of the property, including the terms and

conditions of any proposed sale or lease and the status of negotiations therefor.

(10) If the release would allow sale of any part of the property, a certified copy of a resolution or ordinance of the governing body of the public agency that owns the airport obligating itself to use the proceeds of the sale exclusively for developing, improving, operating, or maintaining a public airport.

(11) A suggested letter or other instrument of release that would meet the requirements of State and local law for the release requested.

(12) The sponsor's environmental assessment prepared in conformance with Appendix 6 of FAA Order 1050.1C, "Policies and Procedures for Considering Environmental Impacts" (45 FR 2244; Jan. 10, 1980), and FAA Order 5050.4, "Airport Environmental Handbook" (45 FR 56624; Aug. 25, 1980), if an assessment is required by Order 5050.4. Copies of these orders may be examined in the Rules Docket, Office of the Chief Counsel, FAA, Washington, D.C., and may be obtained on request at any FAA regional office headquarters or any airports district office.

[Doc. No. 1329, 27 FR 12361, Dec. 13, 1962, as amended by Amdt. 155-1, 45 FR 56622, Aug. 25, 1980]

§ 155.13 Determinations by FAA.

(a) An FAA office that receives a request for a release under this part, and supporting documents therefore, examines it to determine whether the request meets the requirements of the Act of October 1, 1949 (63 Stat. 700) so far as it concerns the interests of the United States in civil aviation and whether it might prejudice the needs and interests of the armed forces. Upon a determination that the release might prejudice those needs and interests, the Department of Defense is consulted as provided in § 155.9(b).

(b) Upon completing the review, and receiving the advice of the Department of Defense if the case was referred to it, the FAA advises the airport owner as to whether the release or a modification of it, may be granted. If the release, or a modification of it acceptable to the owner, is granted, the FAA prepares the necessary instruments and delivers them to the airport owner.